



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
CHATTANOOGA ENVIRONMENTAL FIELD OFFICE**

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November 24, 2015

CERTIFIED MAIL

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The Honorable Gary Davis
Bradley County Courthouse Annex Bldg., 2nd Floor
155 Broad Street
Cleveland, TN 37364

Re: **3rd Notice of Violation (NOV)**
Bradley County Municipal Separate Storm Sewer System (MS4) – Phase II
NPDES Permit Tracking Number TNS077771
Bradley County, TN

Dear Mayor Davis:

On August 18, 2015, Mr. Michael Bascom and myself of the Division of Water Resources (DWR) performed a follow-up Compliance Evaluation Inspection (CEI) of the Bradley County's MS4 program. We met with Tony Knight, Crystal Freiberg, Amanda Baliles and Bently Thomas who provided information during the inspection. The purpose of the inspection was to verify that the MS4 deliverables listed in 2nd NOV dated February 23, 2015 were complete.

Permit

Bradley County has coverage under General NPDES MS4 Phase II permit which became effective on April 19, 2011 and expired on September 1, 2015. Although the general permit has expired this permit will continue to be in force and in effect until a new permit is issued.

During the CEI, MS4 staff provided a copy of the Bradley County's new MS4 Phase II Stormwater Management Policy that was approved by the Bradley County Commission (Resolution 2015-25) on May 18, 2015. Staff also provided a copy of the Bradley County MS4's stormwater management plan (SWMP).

Review of Stormwater Management Program

Stormwater Management Plan [Section 4, MS4 permit]

In a review of Bradley County MS4's stormwater management plan (SWMP), DWR found that the SWMP contains excerpts of text from the MS4 Phase II permit only. It does not describe how the elements of their Stormwater Program will be implemented. Specifically, the SWMP does not include the following information for each of the six minimum control measures described in sub-part 4.2 of their permit:

- a. The best management practices (BMPs), programs and processes that the MS4 or another entity will implement for each of the stormwater minimum control measures;
- b. The measurable goals for each of the BMPs including, as appropriate, the months and years in which the MS4 will undertake required actions, including interim milestones and the frequency of the action; and
- c. The person or persons responsible for implementing or coordinating the BMPs for the SWMP.
- d. Pollutant control efforts for all municipal-operated facilities that maintain or store motorized equipment, oils, or other hazardous materials;
- e. All inspection and monitoring programs shall be described in detail in the SWMP.

Minimum Control Measure 1 - Public Education and Outreach

During the CEI, inspectors found that Bradley County MS4 staff had addressed:

- Public Education and Outreach has been incorporated into a Stormwater Management Plan (SWMP)
- Hotspots had been identified

Bradley County MS4 PIE has not developed or implemented the following items:

- A method to evaluate the effectiveness of the PIE [4.2.1]
- Educational campaigns for some of the targeted groups [4.2.3]
- Training and education within the PIE does not address industry/commercial audience.
- Documentation that stormwater educational activities were conducted [4.2.1]

- Although a list of hotspots was provided, many of the hotspots e.g., convenience stores selected appear to have little influence on water quality within the MS4. The MS4 should reevaluate the list once they implement their illicit detection and elimination program.

Minimum Control Measure 2 – Public Participation and Involvement

- MS4 staff confirmed that Public Participation and Involvement has been incorporated into the PIE and SWMP

Minimum Control Measure 3 – Illicit Discharge Detection and Elimination (IDDE)

During the CEI, inspectors verified that Bradley County has addressed the following items:

- IDDE element has been incorporated into SWMP
- IDDE program has been implemented to detect and address illicit discharges
- Storm sewer system map was revised to show receiving waters or the general direction of flow
- Ordinance has prohibited all types of illicit discharges which encompasses those that may occur from a hotspot
- Enforcement escalation has been incorporated into the SWMP, Appendix C, ERP

Bradley County MS4 has not developed or implemented the following items:

- Implementation of the IDDE program and standard procedures for IDDE are not included in the SWMP [4]
- The MS4 has not set up procedures or implemented a plan to identify illicit discharges e.g. dry weather screening, etc. [4.2.3]
 - Areas of potential illicit discharges from hot spots [4.2.3]
- Although, SWMP Appendix C is titled “Enforcement Response Plan” it does not describe a plan it only lists the levels of escalation available for types of illicit discharges. A plan is described in Section 8 of Bradley County’s Stormwater Policy. This text should be incorporated into the SWMP, Appendix C.

Minimum Control Measure 4 – Construction Site Stormwater Runoff Control

During the CEI, inspectors verified that Bradley County has addressed the following items:

- SWMP Appendix A now includes requirements for construction site managers to control onsite wastes.
- Section 3 of the Bradley County Stormwater Policy requires every person to obtain a TDEC CGP when they disturb more than 1 acre which means the projects must follow TDEC CGP requirements.

Bradley County MS4 has not developed or implemented the following items:

- Section 4(1)(a) of the Bradley County Stormwater Policy states that the municipality adopts TDEC's Erosion and Sediment Control Handbook as guidelines, and guidelines is italicized. This is problematic because guidelines can be open to interpretation. Bradley County's best management practices must be equivalent to TDEC's requirements specified in the Erosion and Sediment Control Handbook.
- Construction site stormwater runoff control has not been incorporated into SWMP
- A standard procedure for Site Plan Review is not included in the SWMP [4.2.4 F]
- A standard procedure to identify high priority construction sites is not included in the SWMP [4.2.4]. Although personnel stated during the CEI that high priority sites are usually identified during zoning review, a written procedure is still required.

Minimum Control Measure 5 – Permanent Stormwater Controls

At the time of the CEI, MS4 staff believed that the Stormwater policy passed on May 18, 2015 contained all of the new requirements. However, upon further review we found that the new stormwater policy still lacked some of the new requirements. While Bradley County received an extension on the implementation of runoff reduction requirements, until May 13, 2016; be advised that this extension applies to this requirement only, and does not apply to all of 4.2.5.

During the CEI, inspectors verified that Bradley County has addressed the following items:

- Monetary penalties are consistent with T.C.A. 68-221-1106 were added to SWMP
- Regulatory mechanism to ensure BMP maintenance was added to SWMP, Appendix D
- Provision requiring BMP owners to initiate corrective action within 30 days of the MS4 discovering a deficiency added to SWMP (p.26) [4.2.5.5]
- Requirement for owner to conduct routine inspection of permanent stormwater structures annually and comprehensive inspections at five year intervals added to SWMP (p.26) [4.2.5.7]

Bradley County MS4 has not developed or implemented the following items:

- Permanent stormwater controls have not been incorporated into SWMP
- Post-construction water quality buffers policy described in the SWMP are not consistent the Bradley County Stormwater Management Policy.
- MS4 has not developed a procedure for project review, approval and enforcement which includes: [4.2.5.4]
 - MS4 has not developed a site review checklist
 - MS4 has not developed a procedure for inter-department consultation
 - MS4 has not developed a procedure for ensuring permanent BMPs are installed correctly – Staff stated that they required a stamped “as built” drawing only (Bradley County Stormwater Policy p. 38).

- MS4 has not developed a system to track post construction BMPs. MS4 staff should develop a spreadsheet or database. [4.2.5.6]

Minimum Control measure 6 – Pollution prevention and Good Housekeeping for Municipal Operations

- The MS4 has not developed and documented within the SWMP an operation and maintenance program which includes the goal of preventing or reducing pollutant runoff from municipal operations [4.2.6]

ERP

- Enforcement Response Plan incorporated into SWMP - The material in the SWMP, Appendix C does not describe a plan it only includes types of escalation available. A plan is described in Section 8 of Bradley County Stormwater Policy. This material should also be in SWMP, Appendix C.
- Staff stated procedure is to revisit site within 7 days [4.2.3]. Please add compliance date to all ERP letters.
- MS4 personnel continue to give verbal warnings to permittees. The need to document inspections and enforcement has been discussed in every NOV beginning with November 6, 2009 NOV.

Discharges to Water Quality impaired Waters

Bradley County MS4 has not fully implemented their program. Current deficiencies are listed below:

- Implement BMPs specifically targeted to achieve wasteload allocations prescribed by all applicable TMDLs [3.1.1]
- No schedule for installing or monitoring those BMPs [3.1.1]

Analytical Monitoring

Macroinvertebrate sampling was conducted by GEO Services, LLC of Knoxville, TN on September 23, 2015 which is after the permit expired. Results are still pending.

Non analytical monitoring

Visual Stream Surveys were conducted on September 16, 2015 which is after the permit expired.

Recordkeeping

Bradley County must keep records of all monitoring activities; inspection and complaint investigation reports; and data used to complete the NOI for at least three years.

Violations:

- MS4 has not developed a SWMP which includes all of the permit requirements [4,4.1]
- MS4 has not developed a method to evaluate the effectiveness of its PIE [4.2.1]
- MS4 does not maintain records documenting that elements of the PIE are actually conducted [4.2.1]
- MS4 has not implemented a program for illicit discharge and detection [4.2.3]
- MS4 has not developed required procedures: conducting IDDE [4.2.3]; identification of high priority construction sites[4.2.4]; site review [4.2.5.4]; inter-departmental consultation [4.2.5.4]; ensuring proper installation of permanent BMPs [4.2.5.4]
- MS4 has not defined an operation and maintenance program for municipal employees which includes training goals within the SWMP [4.2.6]
- MS4 did not conduct Analytical Monitoring before September 1, 2015 [5.1]
- MS4 did not conduct Non-analytical monitoring before September 1, 2015 [5.2]

Required Actions:

The following items must be completed before March 15, 2016.

- The MS4 must develop a SWMP that defines the best management practices (BMPs), programs and processes that the MS4 will implement for each of the stormwater minimum control measures
- The MS4 must develop a method to evaluate the effectiveness of its PIE
- The MS4 should consult with TDEC DWR on the location of hotspots within the Bradley County MS4 boundary
- The MS4 must revise its SWMP to include a procedure for the identification of illicit discharge detection
- The MS4 must revise its SWMP to include a procedure to identify high priority construction sites
- The MS4 must revise its SWMP to include a procedure for site review
- The MS4 must revise its SWMP to include a procedure for inter-department consultation
- The MS4 must include a procedure for ensuring BMPs have been installed correctly in SWMP, Appendix C
- The MS4 must revise its SWMP to include a requirement for training its municipal employees
- The MS4 must revise its SWMP, Appendix C so that it is consistent with the text within Section 8 of Bradley County Stormwater Policy

- The MS4 must revise its Stormwater Management Policy, Section 4 (1) to state that it will require permittees to implement best management practices that are equivalent to TDEC's requirements specified in the Erosion and Sediment Control Handbook rather than state they have adopted TDEC's Erosion and Sediment Control Handbook as a "guideline"

Additional Comments:

TDEC DWR would like to schedule a compliance review meeting with the Bradley County Mayor in order to discuss the County's responsibilities with regard to their MS4 program. Please contact Michael Bascom at (423) 634-5710.

This letter provides a record of the August 18, 2015 follow-up Compliance Evaluation Inspection.

We thank the Bradley County for its efforts toward compliance with its NPDES permit. Furthermore, you have taken a proactive approach for protecting the stream and waterways of Tennessee. If you have any questions concerning either our inspection or this report, please contact Mr. Bascom at (423) 634-5710.

Sincerely,



Jennifer Innes

Program Manager

Division of Water Resources

cc: Bently Thomas, Bradley County via email
TDEC DWR Enforcement